**Before Reading:**

Should there be limits on free speech? Why or why not?

If there should be limits on free speech, who should decide those limits? What should those limits be? Explain.

Should students in school have the same free speech rights as adults? Explain.

*Tinker v. Des Moines Independent Community School Dist., 393 U.S. 503, (1969).*

This case involved students who were forbidden by school officials to wear black

armbands in school to protest the war in Viet Nam. It was the first student’s rights

case to go before the U.S. Supreme Court.

In December 1965, a group of adults and students in Des Moines [Iowa] held a

meeting at … home. The group determined to publicize their objections to the

hostilities in Viet Nam and their support for a truce by wearing black armbands

during the holiday season….

The principals of the Des Moines schools became aware of the plan to wear

armbands. On December 14, 1965, they met and adopted a policy that any student

wearing an armband to school would be asked to remove it, and if he refused he

would be suspended until he returned without the armband. Petitioners [students]

were aware of the regulation that the school authorities adopted.

On December 16, Mary Beth and Christopher wore black armbands to their schools.

John *Tinker* wore his armband the next day. They were all sent home and

suspended from school until they would come back without their armbands. They

did not return to school until after the planned period for wearing armbands had

expired - that is, until after New Year's Day.

…As we shall discuss, the wearing of armbands in the circumstances of this case

was entirely divorced from actually or potentially disruptive conduct by those

participating in it. It was closely akin to "pure speech" which, we have repeatedly

held, is entitled to comprehensive protection under the First Amendment.

… It can hardly be argued that either students or teachers shed their constitutional

rights to freedom of speech or expression at the schoolhouse gate.…

… These [Boards of Education] have, of course, important, delicate, and

highly discretionary functions, but none that they may not perform within

the limits of the Bill of Rights. That they are educating the young for

citizenship is reason for scrupulous protection of Constitutional freedoms of

the individual, if we are not to strangle the free mind at its source and teach

youth to discount important principles of our government as mere

platitudes."

On the other hand, the Court has repeatedly emphasized the need for affirming the

comprehensive authority of the States and of school officials, consistent with

fundamental constitutional safeguards, to prescribe and control conduct in the

schools. Our problem lies in the area where students in the exercise of First

Amendment rights collide with the rules of the school authorities.

The school officials banned and sought to punish petitioners for a silent, passive

expression of opinion, unaccompanied by any disorder or disturbance on the part of

petitioners. There is here no evidence whatever of … interference… with the

schools' work or of collision with the rights of other students to be secure and to be

let alone. …

Only a few of the 18,000 students in the school system wore the black armbands.

Only five students were suspended for wearing them. There is no indication that the

work of the schools or any class was disrupted. Outside the classrooms, a few

students made hostile remarks to the children wearing armbands, but there were

no threats or acts of violence on school premises.

[It was] … concluded [by a lower court] that the action of the school authorities was

reasonable because it was based upon their fear of a disturbance from the wearing

of the armbands. But, in our system, undifferentiated fear or apprehension of

disturbance is not enough to overcome the right to freedom of expression. … Any

variation from the majority's opinion may inspire fear. Any word spoken, in class, in

the lunchroom, or on the campus, that deviates from the views of another person

may start an argument or cause a disturbance. But our Constitution says we must

take this risk, … and our history says that it is this sort of hazardous freedom - this

kind of openness - that is the basis of our national strength and of the independence

and vigor of Americans who grow up and live in this relatively permissive, often

disputatious, society.

In order for … school officials to justify prohibition of a particular expression of

opinion, it must be able to show that its action was caused by something more than

a mere desire to avoid the discomfort and unpleasantness that always accompany

an unpopular viewpoint. …

… the action of the school authorities appears to have been based upon an urgent

wish to avoid the controversy which might result from the expression, even by the

silent symbol of armbands, of opposition to this Nation's part in … Viet Nam.

It is also relevant that the school authorities did not purport to prohibit the wearing

of all symbols of political or controversial significance. The record shows that

students in some of the schools wore buttons relating to national political

campaigns, and some even wore the Iron Cross, traditionally a symbol of Nazism.

The order prohibiting the wearing of armbands did not extend to these. Instead, a

particular symbol - black armbands worn to exhibit opposition to this Nation's

involvement in Viet Nam - was singled out for prohibition. Clearly, the prohibition

of expression of one particular opinion, at least without evidence that it is necessary

to avoid material and substantial interference with schoolwork or discipline, is not

constitutionally permissible.

…School officials do not possess absolute authority over their students. Students in

school as well as out of school are "persons" under our Constitution. …

… Mr. Justice Brennan, speaking for the [Supreme] Court, said:

"`The vigilant protection of constitutional freedoms is nowhere more vital

than in the community of American schools.' The classroom is peculiarly the

`marketplace of ideas.' The Nation's future depends upon leaders trained

through wide exposure to that robust exchange of ideas which discovers truth

`out of a multitude of tongues, [rather] than through any kind of

authoritative selection.'"

… A student's rights, therefore, do not embrace merely the classroom hours. When

he is in the cafeteria, or on the playing field, or on the campus during the

authorized hours, he may express his opinions, even on controversial subjects like

the conflict in Viet Nam, if he does so without "materially and substantially

interfer[ing] with the requirements of appropriate discipline in the operation of the

school" and without colliding with the rights of others. But conduct by the student,

in class or out of it, which for any reason - whether it stems from time, place, or type

of behavior - materially disrupts classwork or involves substantial disorder or

invasion of the rights of others is, of course, not immunized by the constitutional

guarantee of freedom of speech.

As we have discussed, the record does not demonstrate any facts which might

reasonably have led school authorities to forecast substantial disruption of or

material interference with school activities, and no disturbances or disorders on the

school premises in fact occurred.